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Reigel Electric and Central Electric Services (Alter Ego and/or Successor) and Local 577, International Brotherhood of Electrical Workers. Case 30-CA-15265

February 11, 2004

DECISION AND ORDER

BY MEMBERS LIEBMAN, SCHAUMBER, AND MEISBURG

On August 31, 2001, Administrative Law Judge Irwin H. Socoloff issued the attached decision. The General Counsel filed exceptions and a supporting brief. The Respondent filed a reply brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a 3-member panel.

The Board has considered the record in light of the exceptions and briefs, and has decided to affirm the judge's rulings, findings,¹ and conclusions, and to adopt his recommended Order, as modified.²

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge, as modified below, and orders that the Respondent, Reigel Electric, Appleton, Wisconsin, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 2(a)

"(a) Within 14 days after service by the Region, duplicate and mail, at the Respondent's own expense, a copy of the attached notice marked Appendix³ to the Union

¹ The General Counsel has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf'd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the judge's findings.

The Respondent argues that the General Counsel failed to except to the judge's dismissal of the 8(a)(3) allegation. In view of our agreement with the judge that the Respondent did not violate Sec. 8(a)(3), we find it unnecessary to pass on that issue.

² In view of the Respondent's closure, we shall modify the recommended Order to require that the Respondent mail the notice to employees rather than post it at its facility. We shall also modify the recommended Order to direct the substitution of a new notice in accordance with our decision in *Ishikawa Gasket America, Inc.*, 337 NLRB 175 (2001).

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Mailed by Order of the National Labor Relations Board" shall read "Mailed Pursuant to a Judge

and to all former employees employed by the Respondent at any time since May 1, 2000. The notice shall be mailed to the last known address of each of the employees after being signed by the Respondent's authorized representative."

2. Substitute the attached notice for that of the administrative law judge.

Dated, Washington, D.C. February 11, 2004

Wilma B. Liebman, Member

Peter C. Schaumber, Member

Ronald Meisburg, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

**NOTICE TO EMPLOYEES
MAILED BY ORDER OF THE**

**NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to mail and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT unnecessarily delay our responses to the requests of Local 577, International Brotherhood of Electrical Workers, for information relevant and necessary to the discharge of its statutory duty to represent our inside wiremen employees at our Wisconsin jobsites; nor will we provide incomplete information.

WE WILL NOT in any like or related manner, interfere with, restrain or coerce employees in the exercise of their rights guaranteed in Section 7 of the Act.

REIGEL ELECTRIC

ment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Paul Bosanac, Esq., and Sam Facey, Esq., of Milwaukee, Wisconsin, for the General Counsel.

Kevin J. Kinney, Esq., and Bruce F. Mills, Esq., of Milwaukee, Wisconsin, for the Respondent.

Terry J. Roovers, of Appleton, Wisconsin, for the Charging Party.

DECISION

STATEMENT OF THE CASE

IRWIN H. SOCOLOFF, Administrative Law Judge. Upon a charge filed on August 22, 2000, as thereafter amended, by Local 577, International Brotherhood of Electrical Workers, herein referred to as the Union, against Reigel Electric and Central Electric Services, herein called the Respondents, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 30, issued a complaint dated November 21, 2000, alleging violations by the Respondents of Section 8(a)(1), (3) and (5) and Section 2(6) and (7) of the National Labor Relations Act, as amended, herein called the Act. The Respondents, by their answers, denied the commission of any unfair labor practices.

Pursuant to notice, a trial was held before me in Milwaukee, Wisconsin, on January 29, 30 and 31, 2001, at which the General Counsel and the Respondents were represented by counsel and all parties were afforded full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence. Thereafter, the parties filed briefs which have been duly considered.

Upon the entire record in this case, and from my observations of the witnesses, I make the following.

FINDINGS OF FACT

I. JURISDICTION

The Respondents, Wisconsin corporations with offices and places of business located in Appleton, Wisconsin, have been engaged in the electrical contracting business in the construction industry in Appleton and other areas of the state. During the year ending December 31, 2000, a representative period, the Respondent Reigel, in conducting its business operations, purchased and received at its Appleton facility, goods valued in excess of \$50,000, which were sent directly from points located outside the State of Wisconsin. In the same year, beginning June 1, 2000, the Respondent Central provided services valued in excess of \$50,000 for Hoffman Corporation, a Wisconsin corporation engaged in interstate commerce. I find that the Respondents are employers engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

II. LABOR ORGANIZATION

The Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. Background

The Respondent Reigel, incorporated in June, 1978, ceased operations on or about June 1, 2000, and was dissolved. The dissolution occurred after Lyle Reigel, the company's founder,

majority owner and president, decided to retire from the electrical contracting field, and to shut the business down. For many years, this Respondent, a highly profitable enterprise, had recognized Local 577 as the collective-bargaining representative of its inside wiremen employees, as well as other units of employees, and the Respondent Reigel and the Union enjoyed long-term contractual relationships. When the Company ceased operations, it laid off its three union-referred employees, Scott Van de Wetering, Bart Paradeis and Steve Vandyn Hoven, and returned them to Local 577's hiring hall.

On June 1, 2000, Dan Reigel, Lyle's son and a minority owner of Reigel who had been employed there as an estimator, incorporated the Respondent, Central Electric Services. Central was formed to perform electrical contracting work in the construction industry and, to date, has operated as a nonunion contractor. Dan Reigel is the sole owner and the president of Central. The Respondent, Central, has not offered electrician jobs to Van de Wetering, Paradeis or Vandyn Hoven, nor have any of them sought such positions.

In the instant case, the General Counsel contends that the Respondent Central is, with the Respondent Reigel, a single employer and, or, that the Respondent, Central is the alter ego or disguised continuance of the Respondent, Reigel and, or, its successor. Under these theories, the General Counsel urges, the Respondents have violated Section 8(a)(5) of the Act by Central's refusal to recognize the Union as the collective-bargaining representative of its inside wiremen employees and by Central's refusal to apply the terms of the most recent contract entered into between the Union and Reigel Electric. The Respondents maintain that Reigel and Central are entirely separate entities and that Central has not succeeded to, and is not obligated to assume, Reigel's contract, or its bargaining relationship with the Union. Also at issue is whether the Respondents violated Section 8(a)(3) of the Act by Central's failure to offer employment to Van de Wetering, Paradeis and Vandyn Hoven; further violated Section 8(a)(5) of the Act by Reigel's failure promptly and fully to comply with the Union's request for information about the relationship, if any, between Reigel and Central; violated Section 8(a)(1) of the Act when Dan Reigel informed an individual that, although Reigel had been a union shop, Central was not.

B. Facts¹

At the time of dissolution, Reigel Electric, a construction industry electrical contractor that worked exclusively, in the state of Wisconsin, was run, as it had always been, by its president and treasurer, Lyle Reigel. Lyle's wife, Irene, and son, Dan, were vice presidents, Dean Froemming, a professional accountant, was the corporate secretary, and the board of directors consisted of Lyle, Irene and Dan Reigel. Lyle Reigel owned some 78 percent of the corporate stock and Dan, who received his stock in annual gifts from his father over a 10-year period,

¹ The fact-findings contained here are based upon a composite of the documentary and testimonial evidence introduced at trial. In general, I found Lyle Reigel, the president of Reigel Electric, and Dan Reigel, the president of Central Electric Services, the principal witnesses in this case, to be honest, forthright and believable, and I have relied upon their testimony.

owned approximately 22 percent of the stock.² The Company was located at 3050 West Elberg Avenue in Appleton, Wisconsin, on a three-acre parcel of land containing a main building and a small storage building. The land and buildings were owned by Lyle Reigel, personally, and space was leased to Reigel Electric and to another tenant. As a member of the Fox Valley Division, Wisconsin Chapter, National Electrical Contractors Association, Inc. (NECA), a multiemployer collective-bargaining association, the Company, as noted, was party to a series of contracts with the Union. Throughout Reigel Electric's existence, management duties, including labor relations matters, were handled exclusively by Lyle Reigel. The Company obtained its work by competitive bid.

Dan Reigel began working for the Respondent, Reigel in the late 1970's, while he was still in high school. Upon graduation, he was hired as an apprentice electrician. After completion of his apprenticeship, Dan was brought into the office, in 1984, to be trained as an estimator and purchaser. In that capacity, his estimation of the material and labor costs necessary to the completion of a job were crucial to Reigel Electric's participation in the process of bidding for work. Both Lyle and Dan credibly testified that, throughout the 1990's, Dan Reigel's duties were limited to estimating and purchasing, and that he did not exercise management functions and was not responsible for any aspects of labor relations matters.³ Indeed, it is essentially undisputed that Lyle Reigel set the Company's management policies. Dan Reigel, who worked out of Reigel Electric's estimating room, occasionally appeared at the jobsites, pursuant to his responsibilities as estimator and purchaser. He was paid at the hourly rate received by journeyman electricians, plus \$1. In addition, Dan Reigel was paid very sizeable bonuses each year at amounts which varied with Company profits.

During 1999, when Lyle Reigel informed Dan of Lyle's decision to cease his involvement in the electrical contracting business, Dan repeatedly asked that Lyle "give" him the business. Lyle refused. They then discussed a possible purchase of Reigel Electric by Dan, but Lyle demanded "book value" for the business, some \$700,000 or \$800,000, its apparent actual value, a sum of money which Dan would not or could not pay. Lyle refused to sell the business for less and, instead, decided to shut it down. Dan then looked into purchasing one of two other area businesses in the electrical contracting field, but was unable to conclude such a deal. Meanwhile, Reigel Electric

stopped seeking work, submitting only one bid in the year 2000. Dan Reigel finally decided to start his own electrical contracting business and he quit his job at Reigel Electric and established Central Electric Services on June 1, 2000. Central Electric was financed through a line of credit established by Dan, and from money Dan Reigel received by selling his house and then buying a smaller, less expensive home and mortgaging it to the maximum possible extent. Neither Lyle Reigel, nor his wife, nor Reigel Electric provided any financial assistance or assumed any management relationship. Central Electric seeks work in Wisconsin by competitive bid in the electrical field in the construction industry. It took over no projects based upon bids submitted by Reigel. Dan Reigel, as president, secretary, treasurer and sole stockholder of Central, is in total charge of its management, including labor relations.⁴

As part of the dissolution of Reigel Electric, Lyle and Dan Reigel agreed that Dan would receive Reigel Electric's inventory, property and equipment, and a relatively small amount of cash, representing the value of his 22 percent of the business. The arrangement was mutually advantageous as Dan was able to take title to tools and equipment for his new business and Lyle was spared the necessity of having to sell inventory, property and equipment which were not readily saleable and had no established market value. Their value, for transactional purposes, was set at book value, as determined by an independent certified public accountant, albeit an itemized list of same was not prepared. At final distribution, Lyle Reigel received \$580,687 in liquid assets and Dan Reigel received the Company's inventory, property and equipment, valued at \$100,452, plus liquid assets totaling \$71,699.

Central's headquarters are located at 3060 West Elberg Avenue, Appleton, Wisconsin.⁵ In addition, it rents, at apparent market price, the 3050 building formerly used by Reigel Electric and owned by Lyle Reigel. Whereas Reigel utilized only a portion of that building, with the remainder leased to another tenant, Central occupies the entire building as Lyle Reigel, after losing his other tenant, was unwilling to allow Central Electric Services to lease less than the entire space. The Reigel Electric name has been removed from the sign in front of the building and replaced by the Central name. Central uses the same phone number and fax number as Reigel did. It has different federal and state taxpayer identification numbers. Respondent Central, in its business, utilizes the tools and equipment obtained by Dan Reigel as part of the dissolution of Respondent Reigel.

After June 1, 2000, and by January 21, 2001, Central Electric Services employed some nine individuals, including its president, Dan Reigel, and its vice-president and job supervisor, Tom Giesen, former employees of Reigel Electric. Central hired John Brasch, a former Reigel mechanic, as its mechanic; Barbara Kirk, a former Reigel secretary, as its secretary; Donald Hawley, a sometimes electrician at Reigel, and Robert Neiland, a carpenter, mason and material deliverer at Reigel,

² Lyle Reigel's four other children received no stock in Reigel Electric, and did not work there. Rather, they were employed at U. S. Paper Converters, also owned by Lyle, and they were gifted stock in that company.

³ Contesting the foregoing, the General Counsel points to evidence that, on one occasion, in 1997, Dan substituted for Lyle, who was unavailable, at a grievance meeting with the Union concerning an apprenticeship matter; Dan Reigel sometimes filled out and signed apprentice reporting forms as a convenience to requesting apprentices, a ministerial act; Dan Reigel, as estimator, had authority to, and did, make requests for manpower to the Union's hiring hall, an authority he shared, not only with Lyle Reigel, but, also, with the Company's secretary; in 1998, Dan Reigel signed a letter to the Union, concerning a grievance, which had been drafted by his father, as Lyle Reigel was not there to sign it. To summarize this evidence is to underscore its triviality.

⁴ Tom Giesen, an electrician supervisor at Reigel Electric, is similarly employed at Central, and is the corporate vice-president.

⁵ Space is leased from R & D Controls, Inc., owned by Dan Reigel and his siblings. R & D previously rented the 3060 building to another electrical contractor.

into nonunit positions at Central. In addition, Central has employed, apparently as electricians, Alex Vandermolen, Travis Hilgers and Jason Wendler, individuals not previously employed by Reigel. Central has not applied the terms of Reigel's contract with the Union covering the inside wiremen.

There were no accounts, customers or projects transferred from Reigel to Central and Central's work has been, strictly, bid work. Central did not complete any work begun by Reigel. In one instance, Reigel submitted a bid to perform the electrical work at a construction project in April 2000, but the project was delayed until August, after Reigel Electric had ceased operations. When, in August, the agent for the project's general contractor telephoned Dan Reigel to say that Reigel Electric had been awarded the work, Dan stated that Reigel Electric was in the process of shutting down and could not honor its bid. Dan Reigel further said that he, Dan, was starting another electrical company, Central, and wanted to submit a bid on its behalf. Thereafter, Central submitted a bid, identical to Reigel's earlier bid, and was awarded the electrical work at the Fox Cities Racquet Club site.

By the nature of the bidding process entered into by both companies to obtain work, neither Reigel nor Central has maintained long-term customer relationships. Again, as a result of independent bids, there have been some common customers. Generally speaking, Reigel sought work on relatively large projects while Central looks for work on smaller commercial projects. At times, Central Electric Services and an unrelated and nonunion electrical contractor, Thomas Electric, have provided manpower to each other, and reimbursed each other for the cost of same, to complete projects.

The record evidence reflects a total lack of integration of operations between the now defunct Reigel Electric and the new company, Central. Neither Reigel Electric nor Lyle and Irene Reigel, personally, have any financial stake in the success or failure of Central Electric. Also, the record is devoid of evidence of antiunion motivation in the creation of Central.

On July 21, 2000, the Union sent a letter to Dan, at Central Electric Services, inviting him to discuss a contractual relationship with Local 577. There was no response. On July 26, the Union again wrote to Dan at Central Electric, this time stating that Local 577 was the bargaining representative of Central's employees and demanding compliance with the contract negotiated between the Union and NECA. Central did not respond. Thereafter, on August 3, the Union sent a grievance letter to Dan Reigel at Reigel Electric, stating Local 577's concern that Reigel Electric might be evading its contract with the Union by operation of Central Electric Services. In this connection, the Union requested detailed information, in the form of answers to 53 specific questions, concerning the possible relationship between Reigel and Central. Reigel Electric did not respond for some 2-1/2 months. Then, on October 19, 2000, by counsel, it supplied information in the form of specific answers to the submitted questions. However, the record evidence herein shows, in certain respects, the information supplied, demonstrably, was incomplete, for example, by its less than full listing of customers. It is undisputed that, at the time Local 577 requested information, it had an objective factual basis for believing that the Respondent Reigel and the Respondent Central

constituted a single employer, or that Central was the alter ego of Reigel.

Sometime in July 2000, according to the undenied testimony of then Thomas Electric employee Chris Welch, Dan Reigel told Welch that "Reigel was a union shop and Central had gone nonunion." The comment was made during a conversation in which Dan described his background, and that of Central Electric.

C. Conclusions

The Board will find an alter ego relationship to exist between two nominally separate entities if the two employers concerned have substantially identical management, business purpose, operations, equipment, customers and supervision, as well as ownership.⁶ In the absence of an identity of ownership, or an ownership interest demonstrated by the holdings of one company in the other, the Board will examine whether the degree of control exercised by the first entity in the affairs of the second is such "as to obliterate any separation between them."⁷ Additionally, the Board assesses whether the new or second company was created so as to allow the old employer to evade responsibilities under the Act, and whether the two entities deal with each other, if at all, at arms' length, with due regard for separateness.⁸ However, unlawful motivation is not a necessary element of an alter ego finding.⁹ Indeed, the Board consistently has held that no one factor, taken alone, is determinative, a substance-over-form approach approved by the courts. Thus, in *Omnitest Inspection Services*,¹⁰ the Court, in enforcing the Board's order, stated:

[The Employer's] challenge to the Board's reliance on actual control suggests that an alter ego finding should turn upon formal ownership alone. This argument ignores the Board's decisions that the substantial identity of formal ownership is not the sine qua non of an alter ego relationship . . . We are satisfied that the Board's multi-factor test is a reasonable construction of the Act, and that depending on the facts of the case, actual control can be more significant than formal ownership.

Once a finding of alter ego relationship is made, it follows that the collective-bargaining agreement of the one employer is binding upon the second entity.¹¹

In applying the above criteria, Board case law also instructs that, in the absence of common ownership, the older company must exercise very substantial control over the new one, in order to support an alter ego finding. Further, the lack of antiunion motivation in the creation of the second entity often militates against finding a "disguised continuance" of the original organization. In certain instances, the Board has held that

⁶ *Advance Electric, Inc.*, 268 NLRB 1001 (1984).

⁷ *American Pacific Concrete Pipe Co.*, 262 NLRB 1223 (1982).

⁸ *Fugazy Continental Corp.*, 265 NLRB 1301 (1982), *enfd.* 725 F.2d 1416 (D.C. Cir. 1984).

⁹ *Johnstown Corp. and/or Stardyne, Inc.*, 313 NLRB 170 (1993), *enf. denied and remanded* 41 F.3d 141 (3rd Cir. 1994), *supp. dec.* 322 NLRB 818 (1997).

¹⁰ 297 NLRB 752 (1990), *enfd.* 937 F.2d 112 (3rd Cir. 1991).

¹¹ *Watt Electric Co.*, 273 NLRB 655 (1984).

common ownership exists, for alter ego purposes, where ownership and control of both entities rest with members of the same family.¹²

In the instant case, the Respondent, Central Electric Services has a business purpose common to the earlier business purpose of the Respondent, Reigel Electric, a similar type of operation and, in the person of Tom Giesen, employs the same onsite supervision. At least a portion of Central's business is based at the same location previously used by Reigel and Central operates with the same equipment and does business in the same market. However, as shown in the statement of facts, at Reigel Electric, Lyle Reigel controlled management functions, set policy and handled labor relations. At Central, these matters are entirely in the hands of Dan Reigel. There is no evidence whatsoever of centralized control. Likewise, there is an entire lack of evidence of any interrelationship of operations of the two entities.

Only one transaction occurred between Reigel Electric and either Dan Reigel or Central Electric Services, namely, the transfer of Reigel inventory, property and equipment to Dan. As this transaction was based upon book values, as established by corporate accountants for purposes of Reigel's dissolution, and as the record evidence suggests that the items transferred may not have had an ascertainable market value, I conclude that the transaction was at "arm's length," although an itemized list of the transferred property had not been completed at the time possession passed.

As set forth, above, Reigel Electric was a profitable enterprise and enjoyed a long-term relationship with Local 577. There is not a scintilla of record evidence to suggest that its closing was for antiunion reasons, or to evade statutory responsibilities, or for any reason other than Lyle Reigel's desire to retire from the electrical contracting business. Likewise, there is no record evidence to suggest that Central was formed for a reason other than to provide Dan Reigel with a means to earn a living after Dan and Lyle were unable to agree on a price for the sale of Reigel Electric to Dan, and Dan was unable to complete the purchase of one of several other existent businesses.

Reigel Electric was 78 percent owned by Lyle Reigel and Central is 100 percent owned by Dan Reigel. Although Lyle and Dan are members of the same family, this, alone, is insufficient to establish common ownership, for alter ego purposes, as neither Reigel Electric nor Lyle has any financial or other stake in Central, neither the former company nor Lyle exercises any control, whatsoever, over Central and the new company was not created for antiunion reasons and was independently funded by Dan.¹³

In light of the evidence showing separate ownership and control of the two enterprises, and the lack of evidence indicating that Central was formed for other than legitimate business reasons, or that there have been inappropriate dealings between the two companies, I conclude that Central is not a disguised continuance of Reigel, or its alter ego. Too many of the factors traditionally relied upon by the Board to support an alter ego

finding are absent here. I also conclude, based upon the record evidence demonstrating a lack of common management, centralized control of labor relations, interrelationship of operations or common ownership or control of the two businesses, that the Respondent Reigel and the Respondent Central do not constitute a single employer.¹⁴

The General Counsel's successorship contention is dependent upon its further argument that, but for the Respondent Central's discriminatory refusal to hire former Reigel employees Van de Wetering, Paradeis and Vandyn Hoven, a majority of its inside wiremen employee work force would have been former Reigel employees. The difficulty with this argument is the total lack of record evidence showing a discriminatory refusal to hire, or any refusal to hire, those individuals, or antiunion animus in connection with hiring, or anything else, on the part of Central. Accordingly, I reject the successorship contention and, further, conclude that the Respondent, Central did not engage in violations of Section 8(a)(3) of the Act by failing to hire the above-named individuals.

It is undisputed that in July, 2000, Dan Reigel told an employee of another company that Reigel "was a union shop and Central had gone nonunion." In my view, this was a noncoercive statement of fact and, contrary to the General Counsel, was not an announcement that Central would not permit its employees to seek representation. The corresponding complaint allegation must be dismissed.

The record evidence shows that Respondent, Reigel, following Local 577's request for relevant information which that company had a duty to supply, failed to furnish it in a timely manner, without explanation. When, finally, information was supplied, it was incomplete in important respects. The Respondent Reigel thereby violated Section 8(a)(5) of the Act.¹⁵

THE REMEDY

Having found that the Respondent, Reigel has engaged in unfair labor practice conduct in violation of Section 8(a)(5) and (1) of the Act, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. As the record herein provides the information not previously produced by the Respondent, Reigel, and as Reigel is no longer in business and has not continued in disguised form, the Respondent Reigel shall not be ordered further to respond to the Union's August 3, 2000, request. Such an order would serve no useful purpose.

CONCLUSIONS OF LAW

1. Reigel Electric and Central Electric Services are employers engaged in commerce, and in operations affecting commerce, within the meaning of Section 2(2), (6) and (7) of the Act.

2. Local 577, International Brotherhood of Electrical Workers, is a labor organization within the meaning of Section 2(5) of the Act.

3. All inside wiremen employed by the Respondent, Reigel at its Wisconsin jobsites, excluding guards and supervisors as defined in the Act, constitute a unit appropriate for the purposes

¹² *Haley & Haley, Inc.*, 289 NLRB 649 (1988).

¹³ Cf. *Cofab, Inc.*, 322 NLRB 162 (1996), *enfd.* 159 F.3d 1352 (3rd Cir. 1998).

¹⁴ *RBE Electronics of S.D., Inc.*, 320 NLRB 80 (1995).

¹⁵ *Gloversville Embossing Corp.*, 314 NLRB 1258 (1994).

of collective bargaining within the meaning of Section 9(b) of the Act.

4. At all times material herein, the Union has been, and is now, the exclusive representative of all employees in the aforesaid bargaining unit for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

5. By unnecessarily delaying its response to the Union's August 3, 2000 information request concerning the relationship, if any, between Reigel Electric and Central Electric Services, and, in certain instances, by providing incomplete information, the Respondent Reigel has engaged in unfair labor practice conduct within the meaning of Section 8(a)(5) of the Act.

6. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

7. The Respondents have not otherwise violated the Act as alleged in the Complaint.

Upon the foregoing findings of fact, and conclusions of law, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended.¹⁶

ORDER

The Respondent, Reigel Electric, Appleton, Wisconsin, its officers, agents, successors and assigns, shall

1. Cease and desist from

(a) Unnecessarily delaying its responses to the Union's requests for information relevant and necessary to the discharge of the Union's statutory responsibilities, or providing incomplete information

(b) In any like or related manner, interfering with, restraining or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facility in Appleton, Wisconsin, copies of the attached notice marked "Appendix."¹⁷ Copies of the notice, on forms provided

¹⁶ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

¹⁷ If this Order is enforced by a judgment of the United States court of appeals, the words in the notice reading "Posted By Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

by the Regional Director for Region 30, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 1, 2000.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official, on a form provided by the Region, attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. August 31, 2001

APPENDIX

NOTICE TO EMPLOYEES

MAILED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to mail and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT unnecessarily delay our responses to the requests of Local 577, International Brotherhood of Electrical Workers, for information relevant and necessary to the discharge of its statutory duty to represent our inside wiremen employees at our Wisconsin jobsites; nor will we provide incomplete information.

WE WILL NOT in any like or related manner, interfere with, restrain or coerce employees in the exercise of their rights guaranteed in Section 7 of the Act.

REIGEL ELECTRIC